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TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>		Application Number	10/033,243
		Filing Date	December 27, 2001
		First Named Inventor	Karen L. FEARON
		Art Unit	1635
		Examiner Name	J. Epps-Ford
Total Number of Pages in This Submission	3	Attorney Docket Number	377882001800

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply (2 pages) <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Return postcard
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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	MORRISON & FOERSTER LLP Karen R. Zachow, Ph.D. - 46,332
Signature	
Date	October 3, 2003

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: MS Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.	
Dated: <u>10-3-03</u>	Signature: (Michael Boyd)

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Dated: 10-3-03 Signature: [Signature]
(Michael Boyd)

Docket No.: 377882001800
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Karen L. FEARON and Dino M. DINA

Application No.: 10/033,243

Filed: December 27, 2001

For: IMMUNOMODULATORY
POLYNUCLEOTIDES AND METHODS OF
USING THE SAME



Confirmation No.: 8533

Art Unit: 1635

Examiner: J. Epps-Ford

RESPONSE TO RESTRICTION REQUIREMENT

Mail Stop Non-Fee Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is in response to the Office Action mailed September 11, 2003 which sets forth a restriction requirement for pending claims 1-48 in the above-identified application. A response to this action is due October 11, 2003. Accordingly, this response is timely filed.

Restriction has been required as between the following allegedly distinct groups of inventions:

- I. Claims 1-27 and 47-48 drawn to an immunomodulatory polynucleotide comprising an immunostimulatory sequence (ISS);
- II. Claims 28-46, drawn to methods comprising administering an immunomodulatory polynucleotide to an individual.

Applicants hereby elect Group I (claims 1-27 and 47-48), without traverse. Applicants expressly reserve their right under 35 U.S.C. § 121 to file a divisional application directed to the

nonelected subject matter during the pendency of this application, or an application claiming priority from this application.

Should the elected product claims be found allowable, Applicants reserve the right to request rejoinder of withdrawn process claims which include all the limitations of the allowable product claim for examination (M.P.E.P. §821.04).

With regard to Group I, the Examiner required an election of a species of a single nucleotide sequence from the group consisting of SEQ ID NO: 1-2, 18-19, 35-36, 67-80, 83-96, and 132. Accordingly, Applicants hereby elect the sequence of SEQ ID NO: 132. Applicants request that, upon allowance of a generic claim, the remainder of the species be included as permitted by 37 C.F.R. § 1.141(a).

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicants petition for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 377882001800. However, the Assistant Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: October 3, 2003

Respectfully submitted,

By Karen R. Zachow
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